

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH AT KOLKATA**

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No(s).: 3151/KOL/2025
Assessment Year(s): 2017-18**

M/s. Kamakshi Jute Industries Limited	Vs.	ACIT, Circle-1(1), Kolkata
(Appellant)		(Respondent)
PAN: AACCK4928Q		

Appearances:

Assessee represented by : Ankit Jalan, AR.

Department represented by : Pampa Ray, Sr. DR, JCIT.

Date of concluding the hearing : 12-February-2026

Date of pronouncing the order : 10-March-2026

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the Assessee is against the order of the Addl/JCIT(A)-10, Mumbai [hereinafter referred to as Ld. 'Addl/JCIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2017-18 dated 10.10.2025. The assessee had sought adjournment but the same was withdrawn and the case was heard.

2. The Assessee is in appeal before the Tribunal raising the following grounds of appeal:

"1. For that on the facts and in the circumstances of the case, the Ld. CIT(A) was vehemently wrong and unjustified in confirming the addition of Rs. 31,91,258/- made by the Ld. A.O. invoking the provision of section 2(24)(x) r.w.s. 36(1)(va) for the Employees the alleged delay in depositing Contribution to PF & ESI under the relevant Act. Relief Claimed: the addition of Rs. 31,91,258/- should be deleted.

2. For that on the facts and in the circumstances of the case, the Ld. CIT(A) grossly erred in confirming the addition of Rs. 31,91,258/- on account of contribution of Employees contribution to PF & ESI when the due date of



making payment from 15 days from the close of the month is to be reckoned from the date of payment of salary/wage to employees and not from the date when salary becomes due.

3. For that on the facts and in the circumstances of the case, the Ld. The Commissioner of Income Tax (Appeals) was wrong and unjustified in confirming the addition of Rs. 7,945/- made by the Ld. A.O. on account of interest on TDS even though the same was made wholly and exclusively for business purpose.

4. That the appellant craves leave to add, alter, modify, amend, delete and/or withdraw any or all of the grounds of appeal.”

3. Brief facts of the case are that the assessee is a company engaged in the business of manufacturing and trading of jute goods and had e-filed its return of income declaring NIL income and income as per section 115JB of the Act at ₹1,49,04,775/-. The case was selected for scrutiny under Computer Assisted Scrutiny Selection (in short 'CASS') and notices u/s 143(2) and 142(1) of the Act were issued, in response to which the assessee submitted the required documents. The Assessing Officer (hereinafter referred to as Ld. 'AO') noted certain discrepancies and issued show cause notice to the assessee. The Ld. AO observed from the Tax Audit report of the assessee that the assessee had made delayed payment on account of employees' contribution to PF and ESI. It was found that the aggregate sum was arising to the tune of ₹31,91,258/- besides interest of ₹7,945/- thereon. Accordingly, the Ld. AO disallowed the above sum u/s 36(1)(va) r.w. section 2(24)(x) of the Act on the ground that the payments were made after the due date of depositing it to the Government account and the same was not allowed and the total income of the assessee was assessed at ₹31,99,203/- u/s 143(3) of the Act and ₹1,49,04,775/- u/s 115JB of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. Addl/JCIT(A) who perused the facts of the case and the assessment order and discussed the CBDT Circular No. 22/2015 dated 17.12.2015 which had analysed



the principle laid down by the Hon'ble Apex Court in the case of **Alom Extrusions Ltd. [2009] 185 Taxman 416 (SC)** and also discussed relevant provisions of the IT Act and confirmed the disallowance made by the Ld. AO and accordingly dismissed the appeal of the assessee.

4. Aggrieved with the order of the Ld. Addl/JCIT(A), the Assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. It was stated that the due date of deposit of the PF & ESI was applicable from the end of the month of the payment and the payment was being made on fortnightly basis. The assessee relied upon the order passed by the Coordinate Bench in the case of the assessee and requested that the matter may be remanded to the Ld. AO.

6. Similar issue arose in assessee's own case in **Kamakshi Jute Industries Ltd. vs. DCIT** in **ITA No. 69/KOL/2023** for AY 2018-19 order dated 23.10.2025. The relevant extract from the order is as under:

"6. Ground nos. 2 and 3 are regarding adjustment/disallowance of ₹37,68,900/- made to the income of the assessee. Before us, the Ld. AR submitted that the issue relates to disallowance of the employees' contribution of ESI and PF. It was stated that the return of income was filed on 30.10.2018 and the processing was carried out u/s 143(1) of the Act on 16.10.2018. In Ground no. 3, the assessee has contended that the due date for making payment is within 15 days from the close of the month, which is to be reckoned from the date of payment of salary/wages to the employees and not from the date when salary becomes due. This issue has been considered by the Coordinate Bench in the case of Payal Enterprise vs. Dy. Commissioner of Income Tax, Central Circle, ITA No. 1203/KOL/2024 order dated 25.11.2024 in which it has been held as under:

"6. The ld. AR stated that he was not disputing the payments in respect of Sl. Nos. 1, 2 & 3 for EPFO which was admittedly belated and therefore, not allowable u/s 36(1)(va) r.w.s. 2(24)(x) of the Act and also in respect of ESIC at Sl. Nos. 1, 2 & 4 but requested that as the dues for the month of October 2020 relating to EPFO at Sl. No. 4



and that relating to ESIC at Sl. No. 3 for the month of October, 2020 [which is erroneously mentioned as May, 20 in the order of the Ld. CIT(A)] were paid in time, therefore, the same were allowable as a deduction as according to Section 38 of the PF Act, 1952, the due date is to be reckoned from the month in which salary is paid and not from the month for which the salary is due. Since the salary for October, 20 was paid in the month of November, the payment made on 17.11.2020 for amounts of Rs. 6,09,233/- and Rs. 46,787/- respectively was allowable as a deduction. He placed reliance on the decision of the Coordinate Benches in the case of Kanoi Paper & Industries Ltd. vs. ACIT reported in (2022) 75 TTJ (CAL) 448 as well as the in the case of The Master Polishers vs. ADIT in ITA No. 252/MUM/2023 order dated 26.04.2023 and our attention was drawn to para 2 on Page 2 of the order placed at page 48 of the paper book in support of the claim.

6.1. We have considered the submission made In this respect, Section 38 of The Employees' Provident Funds Scheme, 1952 is reproduced as under:

“38. Mode of payment of contributions

(1) The employer shall, before paying the member his wages in respect of any period or part of period for which contributions are payable, deduct the employee's contribution from his wages which together with his own contribution as well as an administrative charge of such percentage of the pay (basic wages, dearness allowance, retaining allowance, if any, and cash value of food concessions admissible thereon) for the time being payable to the employees other than excluded employee and in respect of which provident fund contribution payable, as the Central Government may fix. He shall within fifteen days of the close of every month pay the same to the fund [electronic through internet banking of the State Bank of India or any other Nationalized Bank] or through PayGov platform or through scheduled banks in India including private sector banks authorized for collection on account of contributions and administrative charge:

Provided that the Central Provident Fund Commissioner may for reasons to be recorded in writing, allow any employer or class of employer to deposit the contributions by any other mode other than internet banking.”

{Emphasis supplied}

6.2. Thus, as per the Scheme of EPF, the liability of deposit of EPF arises on payment of salary/wages to the employee and as the



disbursement is made in the next month and was made in the month of November, 2020, the due date of deposit was 15th December, 2020 and therefore, the payment made on 17.11.2020 was within time and, therefore, allowable u/s 36(1)(va) of the Act. Similar finding was also made by the Coordinate Benches in the case of Kanoi Paper & Industries Ltd. (supra) and The Master Polishers (supra). Hence, Ground nos. 2 & 3 of the appeal are allowed and the Ld. AO is directed to allow deduction of Rs. 6,09,233/- and 46,787/- for EPFO and ESIC respectively relating to the payment of salary/wages for the month of October, 2020 after receipt and verification of required documents from the assessee in support of the claim that the payment of wages/salary was made in the month of November for the salary/wages due for the month of October, 2020 and delete the addition made to this extent.”

7. The issue needs examination and the matter is remanded to the Ld. AO for examining the provisions of the relevant Acts and to consider whether the payments were made in time so as to allow the deduction to the assessee. The assessee is directed to produce the challans and other evidence for the payment of salary and the payment of ESI/PF to the concerned authorities. As per the statement of fact, the assessee has filed the date of deduction and the date of deposit for the payments made on different dates, which shall be examined by the Ld. AO and necessary relief as per the directions given above shall be allowed. In view of the decision of the Hon'ble Supreme Court in the case of Checkmate Services P. Ltd vs. CIT [2022] 143 taxmann.com 178 (SC), the employees' contribution is to be treated as the income of the assessee if it is not deposited within the due date. However, the Ld. AO shall examine the facts of the case again and if the payments have been made within the due dates as per the provisions of the Provident Fund Act/ESI Act, he is directed to allow the same as a deduction u/s 36(1)(va) of the Act to the extent of such payments and the rest of the additions shall be confirmed. Accordingly, both these grounds of appeal are partly allowed for statistical purposes.”

7. It was argued by the Ld. AR that similar relief may be allowed in this year as well and the matter may be remanded to the Ld. AO for verification, if required. The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be upheld.

8. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A).



Following the decision of the coordinate Bench of the Tribunal in the assessee's own case, the Bench was of the view that one more opportunity may be allowed to the assessee as the facts are similar and the contention raised may be examined by the Ld. AO. Hence, following the findings in **ITA No. 69/KOL/2023** for AY 2018-19, the order of the Ld. Addl/JCIT(A) is hereby set aside and the matter is remanded to the Ld. AO for examining the provisions of the relevant Acts and to consider whether the payments were made in time so as to allow the deduction to the assessee. The assessee is directed to produce the challans and other evidence for the payment of salary and the payment of ESI/PF to the concerned authorities. The Ld. AO shall examine the facts of the case and if the payments had been made within the due dates as per the provisions of the Provident Fund Act/ESI Act, he is directed to allow the same as a deduction u/s 36(1)(va) of the Act to the extent of such payments and the rest of the additions shall be confirmed. Accordingly, Ground Nos. 1, 2 & 3 of appeal are partly allowed for statistical purposes.

9. Ground No. 4 being general in nature does not require any separate adjudication.

10. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 10th March, 2026.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 10.03.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **M/s. Kamakshi Jute Industries Limited, 16A, Brabourne Road, Tea Board, Kolkata, West Bengal, 700001.**
2. **ACIT, Circle-1(1), Kolkata.**
3. Addl/JCIT(A)-10, Mumbai.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata